IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 238 of 1998

For Approval and Signature: sd/-

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HEIRS OF DECD.NAVNEETRAI JOSHI

Versus

HINDUSTAN CONSTRUCTION COMPANY

Appearance:

1. Appeal from Order No. 238 of 1998

MR JV JAPEE for Petitioners No. 1-1/2

MR ASHOK L SHAH for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 06/11/2001

ORAL JUDGEMENT

1. Against the impugned order passed by the learned 4th Joint Civil Judge (SD), Bhavnagar, below Ex.5 confirming the ex-parte order of status-quo granted in

favour of the respondent - plaintiff on 22.5.1997 the present Appellants - original defendants have filed this Appeal. Along with this Appeal, Civil Application No.4693 of 1998 is filed for interim relief and the interim relief in terms of Para : 5(B) was granted whereby the impugned order passed by the learned trial Judge was stayed. The said interim relief was later on confirmed on 5.10.1998 and rule was made absolute. Thus, the said interim relief is operating in favour of the Appeallant till today.

2. Considering the peculiar facts and circumstances of the case both the learned Counsel for the parties requested to this Court to pass suitable order in this Appeal.

3. Considering the facts and circumstances of the case and the fact that the Suit is of 1997, this Appeal is disposed of without going into the merits of the case and testing the legality and validity of the impugned order passed by the trial court, with a direction to the learned trial Judge to decide the Special Civil Suit No. 118 of 1997 as early as possible and not later than 31.12.2000. The parties shall fully cooperate with the final disposal of the Suit and they shall not press for any unnecessary adjournment. Till then the interim order passed by this Court in Civil Application shall continue.

sd/-

Date : November 06, 2001 (B.J.Shethna, J.)

sas